CERTIFICATE.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1902.

No. 278.

R. M. PATTERSON, EDWARD JANSEN, SVEN FREEMAN, ET AL., APPELLANTS,

vs.

THE BARK "EUDORA," WHEREOF ALFRED E. DICKSON IS MASTER.

ON A CERTIFICATE FROM THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT.

FILED MARCH 31, 1902.

(18,459.)

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JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C., OCTOBER 17, 1902.

1 In the United States Circuit Court of Appeals for the Third Circuit.

B. M. PATTERSON, EDWARD JANSEN, SVEN FREEMAN, E. THOMPSON, Simon Anderson, and Karl Stevenson, Seamen, Appellants,
vs.
THE BARK EUDORA, whereof Alfred E. Dickson is Master.

Appeal from the district court of the United States for the eastern district of Pennsylvania.

Before Acheson, Dallas, and Gray, circuit judges.

Certificate to the Supreme Court.

This cause came before this court by the appeal of B. M. Patterson, Edward Jansen, Sven Freeman, E. Thompson, Simon Anderson and Karl Stevenson from the decree of the district court of the United States for the eastern district of Pennsylvania, sitting in admiralty, dismissing their libel against the British bark Eudora, on board of which vessel they had lately served as seamen. The suit was against the vessel for wages alleged to be due the libellants.

The parties in the suit filed in the district court the following stipulation and agreed statement of facts, to wit:

"*Stipulation as to Facts.*

"And on June 14, 1901, it is stipulated that at the argument of the above case, the following facts shall be admitted, with the same effect as if proved by depositions, taken in accordance with the provisions of the Revised Statutes or the rules of this court.

"1. That the bark Eudora, at the time hereinafter men-
2 tioned, was a British vessel duly registered under the laws of Great Britain and hailing from the port of Halifax, Nova Scotia.

"2. That on January 22, 1900, the said bark was in the port of New York, and being about to proceed to sea, B. M. Patterson, Edward Jansen, Sven Freeman, E. Thompson, Simon Anderson and Carl Svenson, the libellants, one or more of whom were American citizens, shipped as seamen thereon, signing the written shipping articles required by the British law, for 'a voyage from Portland, Maine to Rio and for any ports or places within the limits of 65 degrees north and 70 degrees south latitude, trading to and fro, as required, not to exceed twelve calendar months, final port of discharge to be in the United States of America or Canada, at the rate of one shilling for forty-five days and twenty dollars per month thereafter.'

"3. That the time said shipping articles were signed the sum of twenty dollars was paid on account of each of the libellants, and with the consent of each of them to the shipping agent, through

whom they had been employed by the master of said bark. Said payments were made on account of indebtedness due by the said libellants to the said shipping agent for board and for goods sold to them by him.

"4. That as required by the laws of Great Britain, the said seamen were engaged in the presence of the British vice-consul at the port of New York and said contract was made with his sanction.

"5. That thereafter said vessel proceeded upon a voyage to Turk's island, and thence to Philadelphia, when and where
3 said voyage was completed and the said libellants were discharged; that during the whole time the libellants were in the service of said vessel, they performed their duties as seamen; that at the time of the arrival of said ship at Philadelphia and at the time they were discharged, no wages were due to the libellants by the terms of the contract contained in said shipping articles.

"6. That the libellants each claim to recover the sum of $26.66⅔, being wages, at the rate of $20 per month from the time of shipment on January 22, 1900, until the date of their discharge on March 3, 1900.

"7. That Karl Svenson, one of the libellants, designated in the libel as Karl Stevenson, has signed the shipping articles at the British consulate, in Philadelphia, acknowledging the receipt of all wages due him for said voyage, and freeing the bark from all liability therefor

"8. That proof of the law of Great Britain is waived, and it is agreed that the law therefor as contained in the printed reports, statutes and text books shall be received with the same effect as if regularly proved, subject, however, to the rights of the libellants to object thereto upon any other ground than the mere formality of proof.

"9. The contract specified in said shipping articles, and the payment of said sum of twenty dollars to the said shipping agent were not contrary to or prohibited by the laws of Great Britain, but it is admitted, for the purpose of this case, that said payment is contrary to the act of Congress of December 21, 1898, if that act is
4 properly applicable to the contract in this case.

J. H. BRINTON,
Proctor for Libellants.
H. L. CHEYNEY,
JOHN F. LEWIS,
Proctors for Claimant."

The act of Congress referred to in paragraph 9 of the above stipulation is the act approved December 21, 1898 entitled—"An act to amend the laws relating to American seamen, for the protection of such seamen, and to promote commerce." 30 United States Statutes at Large pages 755, 763.

The facts of this case being as above set forth and this court desiring the instruction of the honorable the Supreme Court of the United States for the proper decision by this court of the subjoined questions or propositions of law thereon arising, it is now ordered

that the following questions or propositions of law, together with the foregoing statement of the facts upon which they arise, be and the same are hereby certified to the Supreme Court agreeably to the provisions of the sixth section of the act entitled "An act to establish circuit courts of appeals, and to define and regulate in certain cases the jurisdiction of the courts of the United States, and for other purposes," approved March 3, 1891, to wit:

First. Is the act of Congress of December 21, 1898, properly applicable to the contract in this case?

Second. Under the agreed statement of facts above set forth, upon a libel filed by said seamen, after the completion of the voyage, against the British vessel, to recover wages which were not due to them under the terms of their contract or under the law of Great Britain, were the libellants entitled to a decree against the vessel?

In testimony whereof the undersigned the judges holding the said circuit court of appeals for the third circuit have hereunto set their hands and seals this nineteenth day of February 1902.

M. W. ACHESON, [SEAL.]
GEO. M. DALLAS, [SEAL.]
GEO. GRAY, [SEAL.]
Circuit Judges.

(Endorsed:) B. M. Patterson, Edward Jansen, Sven Freeman, E. Thompson, Simon Anderson and Karl Stevenson, seamen, appellants, *vs.* The Bark Eudora, whereof Alfred E. Dickson is master. Certificate to the supreme court. Filed March 6, 1902. Wm. H. Merrick, clerk.

UNITED STATES OF AMERICA, *sct:*

I, William H. Merrick, clerk of the United States circuit court of appeals, for the third circuit, do hereby certify the foregoing to be a true and faithful copy of the original certificate of the court filed March 6, A. D. 1902, in the case of B. M. Patterson, Edward Jansen, Sven Freeman, E. Thompson, Simon Anderson and Karl Stevenson, seamen—appellants, *vs.* The Bark Eudora, whereof Alfred E. Dickson is master—No. 26 September term 1901, on file, and now remaining among the records of the said court in my office.

Seal United States Circuit Court of Appeals, Third Circuit.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of the said court at Philadelphia, this twentieth day of March in the year of our Lord one thousand nine hundred and two and of the Independence of the United States the one hundred and twenty-sixth.

WM. H. MERRICK,
Clerk U. S. Circuit Court of Appeals, Third Circuit.

7 [Endorsed:] No. 26. Sept. term, 1902. United States circuit court of appeals, third circuit. B. M. Patterson, Edward Jansen, Sven Freeman, E. Thompson, Simon Anderson and Karl Stevenson, seamen, appellants, *v.* The Bark Eudora, whereof Alfred E. Dickson is master. Certified copy of certificate for instructions from Supreme Court of United States.

Endorsed on cover: Certificate. File No. 18,459. U. S. C. C. of appeals, 3rd circuit. Term No. 278. B. M. Patterson, Edward Jansen, Sven Freeman, *et al.*, appellants, *vs.* The Bark "Eudora," whereof Alfred E. Dickson is master. Filed March 21", 1902.